

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS FILED AUG 19 2004 Civil Action No. _____ CLERK: U.S. DISTRICT COURT By _____ Deputy

Brian Harness d/b/a
Brian Harness Photography,
Plaintiff,

v.

John J. Wilson,
Intervest-Bradford IV, Ltd.
Intervest-Centurion, LLC
Bradford Homesuites Development, LTD.
and Intervest-Bradford, LTD.,
Defendants.

Civil Action No.

Original Complaint:

Copyright Infringement

304 CV 1817 B

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff, Brian Harness d/b/a Brian Harness Photography ("**Harness**" or "**Plaintiff**"), for his complaint against Defendants, John J. Wilson ("**Wilson**"), Intervest-Bradford IV, Ltd. ("**IB4**"), Intervest-Centurion, LLC. ("**Centurion**"), Bradford Homesuites Development, LTD. ("**Development**"), and Intervest-Bradford, LTD. ("**IBLTD**"), and collectively called "Defendant," alleges:

JURISDICTION/VENUE

2. This claim arises under the copyright laws of the United States, 17 U.S.C. 101 *et. seq.*, (hereinafter the Copyright Act.).

3. Subject matter and personal jurisdiction is vested in this Court pursuant to 28 U.S.C. 1338. Additionally, this Court has subject matter jurisdiction under 28 U.S.C. 1331 inasmuch as this claim arises under the copyright laws of the United States. Venue in this judicial district is proper pursuant to 28 U.S.C. 1400(a) and 28 U.S.C. 1391(b) and (c).

THE PARTIES

4. **Plaintiff**, is an individual citizen of Texas engaged in the business of professional photography, and who resides and has a principal place of business in Dallas, Dallas County, Texas

5. **Wilson** is an individual residing in Dallas County, Texas, and may be served with notice of this suit at his office, 4131 CENTURION WAY, DALLAS, TX 75244-2312.

6. **IB4** is a Texas limited partnership in the business of establishing or operating hotels in and around Dallas, Texas. It may be served with citation at 4131 CENTURION WAY, DALLAS, TX 75244-2312 upon its registered agent, JOHN J WILSON.

7. **Centurion** is a Texas limited liability company in the business of establishing or operating hotels in and around Dallas, Texas. It may be served with citation at 4131 CENTURION WAY, DALLAS, TX 75244-2312 upon its registered agent, JOHN J WILSON.

8. **Development** is a Texas limited partnership in the business of establishing or operating hotels in and around Dallas, Texas. It may be served with citation at 4131 CENTURION WAY, DALLAS, TX 75244-2312 upon its registered agent, JOHN J WILSON.

9. **IBLTD** is a Texas limited partnership in the business of establishing or operating hotels in and around Dallas, Texas. It may be served with citation at 4131 CENTURION WAY, DALLAS, TX 75244-2312 upon its registered agent, JOHN J WILSON.

INTRODUCTORY FACTS

10. Harness is a professional photographer, and is the author (photographer) of, and at all times relevant to this claim, has been and is now the sole owner and proprietor of all right, title and interest in and to the copyrights in certain collections of photographs known as "*Photographs 2000 Vol. 1*" One photograph within this collection was originally created by Plaintiff for advertising use by the architect of the structure **(Exhibit 1)**.

11. Harness has complied in all respects with Title 17 of the United States Code (Copyright Act of 1976) and all other United States laws governing copyrights, and has secured the exclusive rights and privileges in and to the copyrights to the above-described photographs.

12. Harness owns certain rights in and to Copyright Registration Number VAu 492-275 issued by the U. S. Registrar of Copyrights in Washington, D.C. for photographs within said collection of images deposited with and covered by said registration **(Exhibit 2)**.

13. Harness's copyrights in the above-described work is presently valid and subsisting, and was valid and subsisting from the moment of its creation in the year 2000, and all conditions precedent to the filing of this suit have occurred.

INFRINGEMENT FACTS

14. On or about August 20, 2003, Harness became aware that Defendants had, without authorization, made one of his images accessible to many Internet travel websites, advertising the availability of their hotel rooms for rent **(Exhibit 3, listing of URLs)**.

15. Plaintiff hired an attorney, who, on January 30, 2004, demanded that Defendants cease and desist from their use of Harness' copyrighted image (**Exhibit 4**). Defendants however, failed or refused to do so, and Harness was forced to demand that dozens of Internet hotel reservation websites cease and desist pursuant to the Digital Millenium Copyright Act (**Exhibit 5, sample letter**).

CAUSES OF ACTION

16. Thus, for many months, and without Plaintiff's authorization, Defendants have willfully infringed Plaintiff's copyrights in and to the above-described image by publishing and/or otherwise using, and/or by scanning, copying, and/or reproducing unauthorized copies of said photographs within the United States.

CAUSATION/DAMAGES

17. As a direct and proximate result of Defendants' above-described acts of copyright infringement, Harness has sustained actual damages in an amount not yet ascertained, but which is believed to be in excess of \$100,000. Such actual damages include, but are not limited to, lost profits and/or lost licensing revenue, research time tracking down and documenting the infringements, and attorney time spent placing joint infringers on notice of the infringements under the DMCA, and getting the image removed from many dozens of servers and web sites.

RELIEF REQUESTED

18. Harness demands an accounting by Defendants of their activities in connection with their infringements of his copyrights in and to the above-described and attached photograph, as well as their gross profits and income derived therefrom.

19. Harness is entitled and seeks to recover actual damages plus the profits of Defendants attributable to the infringements.

20. Alternatively, because the image was registered prior to Defendants' infringements, Harness is entitled to and seeks to recover statutory damages up to but not exceeding \$150,000 (One Hundred Fifty Thousand Dollars), plus reasonable and necessary attorneys fees.

HARNESS DEMANDS JUDGMENT AS FOLLOWS:

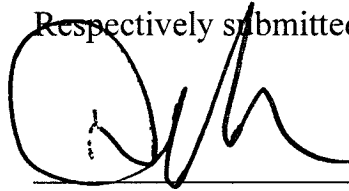
21. Defendants, their agents, employees and/or servants be enjoined *pendente lite* and permanently from infringing Harness' copyright in any manner whatsoever, and from publishing through any visual media, and from selling, marketing or otherwise distributing any of his images;

22. That Defendants be required to deliver up, under oath, for impounding during the pendency of this action, and for destruction thereafter, *all images* which infringe Harness' copyrights, and all prints, film negatives, magnetic tapes, digitally scanned and/or stored images, and all other articles by means of which such infringing copies may be reproduced, which are in the possession or under the direct or indirect control of Defendants;

23. That Defendants be required to pay over to Harness his actual damages sustained, in addition to all their profits attributable to the infringements, and which are not taken into account in computing Harness' actual damages incurred as a result of Defendants' copyright infringements described herein;
24. That Defendants provide an accounting of all gains, profits and advantages derived by them as a result of the willful and unlawful acts of copyright infringement above-described;
25. That Defendants pay to Harness his costs and attorney's fees; and
26. That Harness have such other and further relief as this court shall deem just and proper.

Plaintiff, Brian Harness d/b/a Brian Harness Photography, demands a jury trial in this cause of action.

Respectively submitted,



DANA LEJUNE
TBA #12188250
3006 BRAZOS STREET
Houston, Texas 77006
(713) 942-9898
(713)942-9899 Facsimile
ATTORNEY FOR PLAINTIFF,
BRIAN HARNESS D/B/A
BRIAN HARNESS PHOTOGRAPHY



PLAINTIFF'S
EXHIBIT

1

CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
 REGISTER OF COPYRIGHTS
 United States of America

OFFICIAL SEAL

FORM VA

VAU 492-275



#VAU000492275#

EFFECTIVE DATE OF REGISTRATION

JUN 14 2000

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

PHOTOGRAPHS 2000 VOL. I

NATURE OF THIS WORK ▼ See instructions

PHOTOGRAPHS

PREVIOUS OR ALTERNATIVE TITLES ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "author" of that part, and leave the space for date of birth and death blank.

NAME OF AUTHOR ▼

a BRIAN HARNESS

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

1958

Was this contribution to the work a "work made for hire"?

☐ Yes
☒ No

Author's Nationality or Domicile

 Name of Country
 OR { Citizen of ► U.S.A.
 Domiciled in ► U.S.A.

Was This Author's Contribution to the Work

 Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☒ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR ▼

b

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

Author's Nationality or Domicile

 Name of Country
 OR { Citizen of ►
 Domiciled in ►

Was This Author's Contribution to the Work

 Anonymous? ☐ Yes ☐ No
 Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3

a Year in Which Creation of This Work Was Completed

2000

This information must be given in all cases.

b Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month ► Day ► Year ►

Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

 BRIAN HARNESS
 6009 CHALET COURT APT 3115
 DALLAS TX 75205

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

JUN 14 2000

ONE DEPOSIT RECEIVED

JUN 14 2000

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ►

 • Complete all applicable spaces (numbers 6-8) on the reverse side of this page.
 • See detailed instructions.

• Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of _____ pages

PLAINTIFF'S EXHIBIT

2

EXAMINED BY <i>af</i>	FORM VA
CHECKED BY <i>M.H.</i>	
<input type="checkbox"/> CORRESPONDENCE	FOR COPYRIGHT OFFICE USE ONLY
Yes	

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▾a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▾

Year of Registration ▾

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▾b. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▾

Architectural photographs. There are 175 photographs in this compilation.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▾

Account Number ▾

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▾BRIAN HARNESS
6009 CHALET COURT APT 3115
DALLAS TX 75205

Area code and daytime telephone number ▶ (214) 739-4488

Fax number ▶ ()

Email ▶ bharness@airmail.net

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▶

☒ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of BRIAN HARNESS

Name of author or other copyright claimant, or owner of exclusive right(s) ▴

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▾ If this application gives a date of publication in space 3, do not sign and submit it before that date.

BRIAN HARNESS

Date ▶ MAY 12, 2000

Handwritten signature (X) ▾

Brian Harness

Certificate will be mailed in window envelope to this address:

Name ▾

BRIAN HARNESS

Number/Street/Apt ▾

PO BOX 70

City/State/ZIP ▾

TOLAR TX 76476

• Complete all necessary spaces
• Sign your application in space 81. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material
As of July 1, 1998, the filing fee for Form VA is \$36.Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-8000

9

MSN.COM

Microsoft Corp
One Microsoft Way
Redmond, WA 98052
425 882 8080

<http://www.eshop.msn.com/eshopframe.aspx?merchId=2489&catId=799&u=http%3a%2f%2fwww.expedia.com%2fpubspec%2fscripts%2feap.asp%3fGOTO%3dDAILY%26Page%3d%2fdeals%2fhotel%2fdfw%2fdefault.asp%26eapid%3d7209-1>

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http://media.expedia.com/hotels/1000000/490000/480800/480790/480790_1_t.jpg

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Yahoo! Inc.
701 First Avenue
Sunnyvale CA 94089
domainadmin@yahoo-inc.com
+1.4083493300 Fax- +1.4083493301

<http://search.travel.yahoo.com/bin/search/hotel?olddestid=191502014&oldlocation=Dallas&oldattraction=&.bail=http%3A%2F%2Fsearch.travel.yahoo.com%2Fbin%2Fsearch%2Fhotel%3Fdestid%3D191502014%26state%3DTX%26city%3DDallas%26snap%3D1&location=Dallas&price=&type=&name=bradford>

<http://search.travel.yahoo.com/bin/search/hotel?olddestid=&oldlocation=&oldattraction=&.bail=http%3A%2F%2Ftravel.yahoo.com%2Fp-hotel-191500002&location=dallas%2C+tx&price=&type=&name=bradford+lincoln+park>

<http://search.travel.yahoo.com/bin/search/hotel?location=dallas&type=&price=&name=bradford+lincoln+park&olddestid=&oldlocation=&interested=&.bail=http%3A%2F%2Ftravel.yahoo.com%2Fp-hotel-191500002&destid=191502014&submit=Select>

http://travel.yahoo.com/p-hotel-494370-bradford_at_lincoln_park-i

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AOL.COM

America Online, Inc.



22000 AOL Way
Dulles, VA 20166
703 265 4670
domains@aol.net

<http://webcenter.res.travelocity.aol.com/hotel/HotelAvailability.do?SEQ=10794892744002162004>

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<http://rg.travelocity.com.edgesuite.net/batb-v/pics/VE/VE-053434-S-W100-H080.jpg>

COMPUSERVE.COM

CompuServe Interactive Services, Inc.
5000 Arlington Centre Blvd
Columbus, OH 43220
Tel. 614 457 8600
Fax. 614 457 0348
Email: domains@aol.net

<http://cssvc.res.travelocity.compuserve.com/hotel/HotelAvailability.do?SEQ=10790259970722112004>

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<http://rg.travelocity.com.edgesuite.net/batb-v/pics/VE/VE-053434-S-W100-H080.jpg>

NETSCAPE.COM

Netscape Communications Corporation
466 Ellis Street
Mountain View, CA 94043
Tel. 650 937 3216
Email: domains@aol.net

<http://webcenter.res.travelocity.netscape.com/hotel/HotelAvailability.do?SEQ=10794898555532162004>

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TRAVELOCITY.COM

Travelocity.com LP
3150 Sabre Dr.
MD 9416
Southlake, TX 76092

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ity&mode=1&city=DALLAS&state=TX&ckin_dt_yr=2004&ckin_dt_mon=Apr&ckin_dt_dy=6&ck
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&distance=&prop_type=nopref&source=YH&hot_srch_name=BRADFORD&room_cnt=1

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PEGS.COM
PEGSINC.COM

Pegasus Solutions, Inc.
8350 North Central Expressway, Suite 1900 Dallas, TX 75206

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image link=SCB009 B1A

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BYRATE.COM
HOTELS-RATES.COM
HOTELSHELP.COM

Internet Programming, Inc
David Lurvey
5969 S Brightwater Trail
Springfield, MO 65810
Phone: 4178498921

BYRATE.COM
http://www.byrate.com/property_info/rww75/Dallas/TX/US/The_Bradford_at_Lincoln_Park/

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HOTELS-RATES.COM
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GATE54.COM

Isotope LLP
9 Green Park Station

Green Park Road
Bath, Somerset BA1 1JB
GB
+44.1225444674

http://www.gate54.com/north_america/US_TX/dallas/hotels/hotel_11241971.html

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SNAPHOTELS.COM

M Hemstreet
424 Bowen
Longmont, Colorado 80501
(303) 774-9556

<http://www.snaphotels.com/tx/dallas/the-bradford-at-lincoln-park.htm>

<http://snaphotels.com/tx/dallas/the-bradford-at-lincoln-park.htm>

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DALLASTEXASHOTELS.US
KEYWORDHOTELS.COM
ONETRAVELSOURCE.COM
TODAYSTRAVEL.COM

Patrick Noennig
OneTravelSource.Com, Inc.
5409 Overseas Hwy, Suite 112
Marathon FL 33050
3057437430

http://www.dallastexashotels.us/hotels_info/Dallas/TX/US/11241971/

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<http://www.keywordhotels.com/11241971.html>

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<http://www.onetravelsource.com/11241971.html>

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TODAYSTRAVEL.COM

<http://www.todaystravel.com/11241971.html>

http://www.todaystravel.com/hotel_information.cfm?HotelID=11241971&ShowRates=Yes

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LYCOS.COM

Lycos, Inc
100 Fifth Ave
Waltham, MA 02451
dns-admin@LYCOS-INC.COM
781-370-2700

http://worldres.lycos.com/script/gen_prop.asp?LA=1&HN=the+bradford+&NN=1&PR=1&CP=1&CO=225&CN=dallas&SI=52&FE=9249&P2=129.00&P1=69.00&SUBMIT.Y=12&SUBMIT.X=23&hotel_id=39041&from=text

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<http://images.worldres.com/property/a39000/39041/hotel.jpg>

PLACESTOSTAY.COM

Worldres.com
1510 Fashion Island Blvd
Suite 100
San Mateo, CA 94404
hostmaster@WORLDRES.COM
650-372-1700 fax: 650-372-1701

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http://reservations.usahotelguide.com/nexres/search/power_results.cgi?bed_type=NP&ses=0431227dcbee7f216f115290b6900af96579&country=&doa_dd=16&brand=¤cy_id=&name=the%20bradford&smoking_pref=NP&num_rooms=1&dod_mm=09&src=10007232&dod_dd=17&num_children=0&state=&priceband=&city=dallas&num_adults=1&num_beds=0&clear_cache=&zip=&doa_mm=09&

http://reservations.usahotelguide.com/nexres/search/power_results.cgi?bed_type=NP&ses=22e3107ced7957485532ee07304a8fd65515&country=&doa_dd=13&brand=¤cy_id=&name=bradford&smoking_pref=NP&num_rooms=1&dod_mm=10&src=10007232&dod_dd=14&avail=Y&num_children=0&state=TX&priceband=M&city=dallas&num_beds=0&num_adults=1&clear_cache=&zip=&doa_mm=10&

http://reservations.usahotelguide.com/nexres/search/power_results.cgi?bed_type=NP&ses=a10a2472bc07a89825f79a65a902b22f24231&country=&doa_dd=15&brand=¤cy_id=&name=the%20bradford&smoking_pref=NP&num_rooms=1&dod_mm=09&src=10007232&dod_dd=16&num_children=0&state=&priceband=&city=dallas&num_beds=0&num_adults=1&clear_cache=&zip=&doa_mm=09&

PHOTOS STORED HERE:

<http://images.wctravel.com/images-logos/11241971.gif>

RESERVETRAVEL.COM

Alliance Reservations Network
14435 N 7th St, Suite 300-B
Phoenix, AZ 85022
602-952-2106x102
Bertenshaw, Peter peteb@allresnet.com

<http://www.reservetravel.com/v4/redir.aspx?siteid=288&pid=35119&type=Property&&CCheck=1>

PHOTO STORED HERE:

http://www.reservetravel.com/v4/hotelimages/pegs/VE/SCB009/th_scb009_b1a.jpg

HOTELUS.COM

Atlantic Republic Securities
SERGE ATLAN
49 richmondville avenue, suite 105
westport, CT 06880
atlan@ix.netcom.com
561 361-8510
Fax- 561-361-0337

http://www.hotelus.com/de/cheap_hotels_dallas_tx_us.html?namespec=bradford+lincoln+park

http://www.hotelus.com/it/cheap_hotels_dallas_tx_us.html?namespec=bradford+lincoln+park

http://www.hotelus.com/es/cheap_hotels_dallas_tx_us.html?namespec=bradford+lincoln+park

http://www.hotelus.com/cheap_hotels_dallas_tx_us.html?namespec=bradford+lincoln+park

http://www.hotelus.com/fr/cheap_hotels_dallas_tx_us.html?namespec=bradford+lincoln+park

PHOTOS STORED HERE:

<http://www.hotelus.com/hotel-image-for-bradford-at-lincoln-park-dallas-tx-us-w080-170890.jpg>

WORLDCUP-2002.CO.UK

Global Marketing Ltd
9 Grosvenor Road
Colwyn Bay
North Wales
United Kingdom
tele. 01492 530423

<http://www.worldcup-2002.co.uk/n-america/dallas/thebradford.htm>

PHOTO STORED HERE:

<http://www.worldcup-2002.co.uk/images/480790.jpg>

HOTELS-LODGING-RESERVATIONS.COM

Jonathan Kaplan
3003 Van Ness St NW
#1118S

Washington, DC 20008
kappy77@aol.com
202-248-9220

http://www.hotels-lodging-reservations.com/north-america/united-states/texas/dallas/the_bradford_at_lincoln_park.html

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http://www.hotels-lodging-reservations.com/north-america/united-states/texas/dallas/scb009_b1a.jpg

HONESTHOTELREVIEWS.COM

Michael Cruz
16 Cloverdale
Las Flores, CA 92688
Cruz, Michael MikeC@Cruzino.com
949-709-4785

http://www.dallas.honesthotelreviews.com/hotel/dallas/bradford_at_lincoln_park.html

PHOTO STORED HERE:

<http://www.dallas.honesthotelreviews.com/hr/dallas/053434A.jpg>

A1411.COM CITYSTROLL.COM ENEWS7.COM

Jay Taylor
6840 N.W. 26 Ave.
Fort Lauderdale, FL 33309
954-969-0069

A1411.COM

PHOTO STORED HERE:

http://www.lg.a1411.com/hotels/images/scb009_b1a.jpg

CITYSTROLL.COM

http://www.citystroll.com/hotels/us/LDC_the-bradford-at-lincoln-park.htm

PHOTO STORED HERE:

http://www.lg.a1411.com/hotels/images/scb009_b1a.jpg

ENEWS7.COM

<http://www.enev7.com/texas/dallas/the-bradford-at-lincoln-park.htm>

PHOTO STORED HERE

<http://www.enev7.com/texas/dallas/the-bradford-at-lincoln-park-1.jpg>

<http://images.wctravel.com/images-logos/11241971.gif>

HOTELS-SHOPPER.COM

Rishe, Naphtali
100 Lincoln Rd. #1547
Miami Beach, FL 33139

http://www.hotels-shopper.com/US_TX/DFW-c9-11.htm

PHOTO STORED HERE

<http://images.worldres.com/property/a39000/39041/hotel.jpg>

BESTHOTELSNETWORK.COM

Deon Direct
1351 Tourmaline Street
Ste. 216
San Diego, CA 92109
cdeon@hotmail.com
858-488-0423
858-488-9884

http://www.besthotelsnetwork.com/cities/us/tx/dallas/bradford_at_lincoln_park.htm?ref=obhxa160975

PHOTO STORED HERE

http://reservations.pegasinc.com/booker/AppLogic+booker.util.ImageBlob?brand=VE&pid=SCB009&image_link=SCB009_B1A.JPG

OPODO.CO.UK

Opodo Ltd
20 Garrick Street
London
WC2E 9AX
GB

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https://agent.synxis.com/en_US/barImages/SCBCOR/SCB009/lincoln.jpg

LASTMINUTETRAVEL.COM

LastMinuteTravel.com, Inc.
3455 Peachtree Road Suite 110
Atlanta, GA 30326
(404) 495-2100
fax: (404) 495-2111

PHOTO (ONLY) STORED HERE

TRAVELCOUNT.COM

Domains by Proxy, Inc.
15111 N Hayden Rd., Suite 160
PMB353
Scottsdale, Arizona 85260

<http://www.travelcount.com/hotelloverview.php?hotelID=11241971>

PHOTO STORED HERE

<http://images.wctravel.com/images-logos/11241971.gif>

TACA.COM

TACA INTERNATIONAL AIRLINES, S.A.
P.O. BOX 591410
Miami, FL 33159
214-496-3810
Fax: 214-496-3794

<http://www.taca.com>
(CLICK HOTEL AND ENTER CITY dallas, STATE texas, COUNTRY POSTAL CODE 75225,
AND UNDER HOTEL NAME- "THE BRADFORD")

PHOTO STORED HERE

BUDGETHOTELS.COM

Budgethotels.com, inc. (BUDGETHOTELS-DOM)
#202, 1449 St. Paul Street
Kelowna, BC V1Y 2E5
CA

<http://www.budgethotels.com/hotellistings.php?Next=80&country=US&province=TX&city=Dallas&SESSID=aa93d15a6fd575dfe760b2857dc0d69b>

PHOTO STORED HERE

http://www.budgethotels.com/Hotel_Images/90/170890/thumbnail.gif

CHEEPHOTELS.CO.UK

CheepTravel Ltd
Hampden House
Hitchin Road
Arlesey
Beds
SG15 6RT
GB

<http://www.cheephoteles.co.uk/Dallas/The-Bradford-At-Lincoln-Park.htm>

PHOTO STORED HERE

http://media.wwte.com/hotels/1000000/490000/480800/480790/480790_1_s.jpg

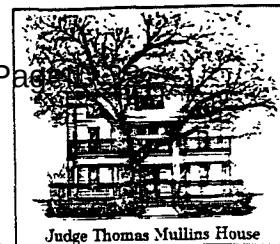
SYNXIS

Synxis
7926 Jones Branch Drive, Suite 1000
McLean, VA 22102
7036104902
fax: 7034482570

http://www.opodo.co.uk/otpbvpl/Tch/Page/WRProxyInterface.jsp?Mkt_Id=CSEO0200590035233&origurl=http://opodouk.worldres.com/script/gen_prop.asp&LA=1&NI=3245&PR=1&CP=1&SI=596&FE=9926&P2=129.00&P1=69.00&hotel_id=39041&from=text

PHOTO STORED HERE

<http://images.worldres.com/property/a39000/39041/hotel.jpg>



January 30, 2004

Mr. John J. Wilson
Registered Agent
Intervest-Bradford, Ltd.
Bradford Homesuites Development, Ltd.
Intervest-Bradford IV, Ltd.
Intervest Centurion, L.L.C.
4131 Centurion Way
Dallas, TX 75244-2312

RE: Client: Brian Harness, Photographer
Matter : Infringements of Copyrighted Photograph

Dear Mr. Wilson:

The undersigned represents Brian Harness, Photographer. Internet advertising placed and/or allowed by, and benefitting Intervest-Bradford, Ltd., Bradford Homesuites Development, Ltd., Intervest-Bradford IV, Ltd., and/or Intervest Centurion, L.L.C., and that features graphics infringing the copyrights in and to images created by Brian Harness.

This image created by Mr. Harness is on file with the U.S. Registrar of Copyrights (Exhibit A, Certificate of Registration; Exhibit B, copy of image at issue). Willful infringements such as scanning images into digital media and then publishing them for profit, may create liability for the payment of actual damages, disgorgement of profits attributable to the infringement, payment of statutory damages as high as \$150,000 per infringement, and, costs of litigation and attorney's fees.

This letter is Brian Harness' demand that the above-referenced entities immediately:

1. **Pay \$440,650;¹**
2. **Cease and desist** from all further dissemination or distribution of this and any other of Brian Harness' images, **and provide proof of same to the undersigned;**

¹James Pickerell, an expert in the valuing of photographic images, has calculated Harness' actual damages. His report and résumé are attached.

PLAINTIFF'S
EXHIBIT

4

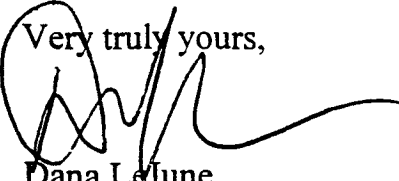
Case 3:04-cv-01019 Document 1 Filed 08/19/04 Page 33 of 35 PageID 33
3. **Buy back** ~~otherwise withdraw~~ all brochure ~~liers~~, and any other advertising distributed *or to be distributed*, containing the attached image, and provide same to the undersigned for destruction;

4. Return to the undersigned **all** tangible representations **and** all magnetically or optically-stored data of any kind bearing and/or storing respectively the copyrighted image, ***and any other of Brian Harness' images***, including but not limited to all color separations, internegatives, mechanicals, digital images, etc.;
5. **Tender** to the undersigned a **sworn itemization** of all uses to which any of the entities referenced above have put the image; *and*
6. **Tender** to the undersigned an **audited accounting** of all profits attributable to these entities' use of Brian Harness' image.

Please forward correspondence to the undersigned **within ten (10) days of receipt** of this letter indicating your intentions in these regards. **Absent actual receipt by the undersigned of such correspondence within the ten days, this demand is withdrawn.**

Please do not communicate directly with Mr. Harness about this matter, as doing so will be construed tortious interference with the attorney-client relationship. Rather, if you have questions or comments, please direct them to the undersigned, at the address or phone number above, weekdays, during regular business hours.

Mr. Harness looks forward your immediate attention to these matters, and to a prompt, amicable resolution for all concerned.

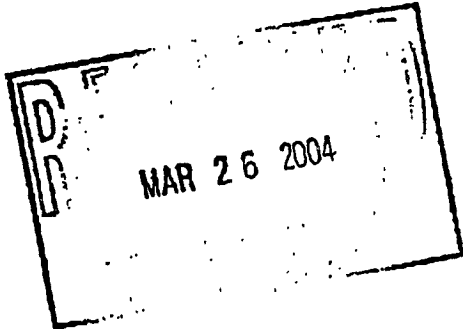
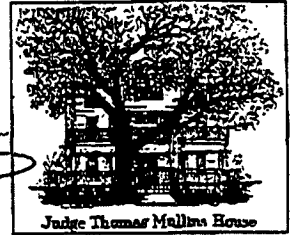
Very truly yours,

Dana LeJune

DL/nil
Sent Certified Mail, RRR

DANA ANDREW LEJUNE ATTORNEY AT LAW

Board-Certified, Civil Trial Law, Texas Board of Legal Specialization

3006 Brazos Street
Houston, Texas 77006
tel 713.942.9898
fax 713.942.9899
dlejune@triallawyers.net
www.triallawyers.net



March 19, 2004

Alliance Reservations Network
DMCA Compliance
14435 North 7th Street
Suite 300-B
Phoenix, Arizona 85022

RE: Client: Brian Harness, Photographer
Matter: Copyright infringements of image

Dear Sir or Madam:

This is Brian Harness' notice to Alliance Reservations Network (regarding the attached list of URLs), that an image on web sites it currently hosts infringe Mr. Harness' copyrights.

Pursuant to the Digital Millennium Copyright Act ("DMCA") Section 512 *et seq.*, your company is hereby placed on notice that the undersigned is a person authorized to act on behalf of Mr. Harness. Mr. Harness's attached verification confirms that the information provided with this letter is accurate, and further, that Mr. Harness has a good faith belief that use of the material in the manner about which we are complaining herein is **not authorized**.

More specifically, neither Mr. Harness nor any agent of his has authorized any of the "Bradford entities" to use this copyrighted image on the internet. Additionally, the "Bradford entities" cannot have acquired the rights to use this image by operation of law.

So that your company can easily identify the specific image that is being used on the "Bradford entities" web sites without authorization, I have attached a color copy of it, along with its URL.

This is Mr. Harness' demand that your company cease and desist from displaying, disseminating or otherwise providing access to this copyrighted image (or disable access to it) within ten (10) days of your receipt of this notice.

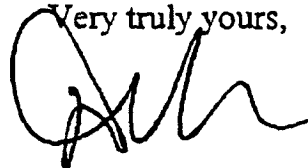
PLAINTIFF'S
EXHIBIT

5

Done
3/26/04
Edward Whon
Alliance Reservations Network

To expedite your handling of this matter, this notice is being delivered *via* email attachment either pursuant to the most recently-amended DMCA designation filed by your company with the copyright office, or, if (in violation of U.S. law) your company has not filed its DMCA designation with the U.S. Copyright Office, *via* the most appropriate email addresses found on your website. This notice and demand is also being sent by certified mail, return receipt requested, to either the physical address in the said DMCA filing, or the most appropriate physical address found on your website.

If you have any questions or wish to discuss this matter, please do not contact Mr. Harness directly. Rather, please ask or contact me, at either the physical or email address at the top right side of the first page of this correspondence. You may also contact me at the telephone number found at the same location.

Very truly yours,

Dana LeJune

DL/nll

DMCA Notice to reservetravel_comFINAL.wpd